

# 2 Warren Critics Cite Role

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Two leading critics of the Warren Commission's report on the assassination of President Kennedy said yesterday that they recommended Philadelphia lawyer Richard A. Sprague as chief counsel for the new House inquiry into the murder.

One of the critics, Mark Lane, also said that he sounded out Sprague about the job at a get-together in Philadelphia Oct. 6 and subsequently ac-

companied Sprague to meetings with several members of the House Select Committee on Assassinations, including Chairman Thomas N. Downing (D-Va.). Sprague took the job Oct. 7.

"I went to Philadelphia, had dinner with him and came away convinced that if he was the man who did it, it would be an excellent investigation," said Lane, whose Citizens Commission of Inquiry has been pressing since early 1975 for a congressional probe. The other Warren Commission

## on Sprague



**BERNARD FENSTERWALD**  
... says he rejected job

critic, Washington lawyer Bernard Fensterwald, said he had initially been offered the top committee staff job by Downing, but turned it down, partly on the grounds that he could hardly be considered impartial.

The House committee has also been assigned to investigate the 1968 assassination of Martin Luther King Jr. Fensterwald represented James Earl Ray, who is serving a 99-year prison term for King's murder from 1971 until recently.

In addition, as head of the private Committee to Investigate Assassinations, Fensterwald observed, "I've said for years that the Warren Commission report was a fairy story."

Lane and Fensterwald have been working for months with Downing and other members of Congress on the creation of the committee.

Shortly after the committee was created in September, Lane said that

See SPRAGUE, A15, Col. 1

### SPRAGUE, From A1

"Downing told me he was considering two people, Bud Fensterwald and me. I said either one would be a tragedy. You can imagine how tempted I was, but the media would have said, with absolute justification, that the committee had already reached a conclusion."

There has been considerable vagueness until now over the manner in which Sprague was selected. In an interview several days ago, for instance, Downing told a reporter that:

"Actually Sprague's name was submitted in a list offered by Congressman [Henry B.] Gonzalez. I talked to Henry about it. He doesn't know where the name came from. . . But as I looked into it, I became convinced that he [Sprague] was the best for the job."

In that same interview, Downing also said that Lane had never been considered. Of Fensterwald, the committee chairman said, "to say he was never considered wouldn't be right, but a lot of people were interested in this thing."

According to Lane, however, Downing gave up on Fensterwald with some reluctance. Lane said that when he emphasized Fensterwald's role as Ray's lawyer, Downing countered by suggesting that Fensterwald could handle the Kennedy inquiry and Lane the investigation of King's murder.

"I said, 'No, no, that would be counterproductive,'" Lane recalled yesterday in a telephone interview. "I've worked too hard for this. [Downing aide Rick] Feeney said I was being too selfish, but I said, 'No, I'm being unselfish. I want an impartial committee to say I was right.'"

Subsequently, Lane said he and George O'Toole, another Warren Commission critic, batted the question of who should get the job back and forth over the telephone. Lane said he mentioned the name of a high-ranking lawyer in the American Civil Liberties Union, but "George said, 'We're not really talking about a civil libertarian, are we? We're talking about a tough prosecutor.' I said yeah."

O'Toole finally came up with Sprague's name, because of his prominence and success as a special prosecutor in the murders of United Mine Workers dissident Jock Yablonski, his wife and daughter.

That same day, either in late September or early October apparently, Lane went over to the Library of Congress, did some research on Sprague, and, duly impressed, called him long-distance. Lane said he made clear that he was "calling without portfolio" but asked Sprague, then in private practice in Philadelphia, if he would be interested in the job.

"He said 'the first thing you should know is that I worked for Arlen Specter' [former Philadelphia District Attorney and ex-Warren Commission lawyer who authored the "single bul-

let theory"]. I said, 'I don't see that as a problem at all. In one week, you're going to be up to your hips in evidence of conspiracy.'"

Finally, Lane recalled, Sprague said he would be interested only if Congress wanted a thorough investigation rather than "a splash and a few headlines."

Lane said he, then talked to members of the committee including Del. Walter E. Fautroy (D-D.C.), about Sprague; got together with him in Philadelphia, and shortly thereafter, perhaps on Oct. 7, introduced him in separate meetings here with Fautroy and Downing. Later, after Lane left for other engagements, "he went on to meet Gonzalez. He told me later, in essence, that they'd offered him the job."

Sprague went on the committee payroll as acting director Oct. 7. He is known as a tough, independent prosecutor and those who have dealt with him in the past predicted yesterday that he would conduct a thoroughly independent inquiry. Washington lawyer Joseph L. Rauh Jr., who worked with Sprague in the Yablonski killings, said he recommended the Philadelphian to Fautroy in the strongest terms. "He told a lot of congressmen he was going to be the boss and they said okay," Rauh said. "I think he's absolutely great."